

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

Janine LaVigne, *on behalf of herself and all
others similarly situated,*

Plaintiff,

v.

1:15-cv-00934-WJ-LF

First Community Bancshares, Inc.; First
Community Bank; DOES 1-10, inclusive,

Defendants.

ORDER ON MOTION TO EXTEND PRETRIAL DEADLINES

THIS MATTER is before the Court on plaintiff's Motion to Extend Pre-Trial Deadlines (Doc. 59), filed on December 22, 2016. Defendants filed a response on January 6, 2017 (Doc. 62), and plaintiff filed a reply on January 13, 2017 (Doc. 66). Defendants filed a Motion for Leave to File a Sur-Reply (Doc. 68), and plaintiff filed a response to this motion (Doc. 69). Having reviewed the filings and the applicable law, the Court finds the Motion to Extend Pre-Trial Deadlines is well taken and it will be GRANTED. The Court finds the Motion for Leave to File a Sur-Reply is not well taken, and it will be DENIED.

The current discovery deadline is January 6, 2017, and the current class certification and discovery motion deadline is January 17, 2017. Doc. 58. Plaintiff asks the Court to extend the discovery deadline to March 6, 2017 and the deadline for class certification and discovery motions to March 17, 2017. Doc. 66 at 3–4. As good cause for the requested extension, plaintiff states that she did not receive the un-redacted call logs from defendants' vendor GC Services Limited Partnership until December 22, 2016, and that she needs additional time to complete data processing and review of these records. Doc. 66 at 1, 3. Defendants contend that plaintiff has failed to show the requisite "good cause" for modifying the scheduling order. Doc. 62 at 2.

Defendants argue that plaintiff can meet the current deadlines with “diligent efforts” and claim that plaintiff has failed to “provide some reasonable basis for noncompliance with the scheduling order.” *Id.* The Court finds defendants’ objections to the extension of time to be without merit.

Plaintiff has demonstrated good cause for the extension and it will be granted. GC Services did not provide the un-redacted call logs to plaintiff until December 22, 2016. Doc. 66 at 1. Plaintiff then had to send the un-redacted call logs to her data vendor for analysis. *Id.* at 2. As of January 13, 2017, plaintiff was still in the process of completing the data processing and review. *Id.* at 3. Plaintiff asserts that “three weeks is [not] sufficient to analyze and make use of tens of thousands of pages of data.” *Id.* at 3. The Court agrees. Plaintiff has shown good cause for an extension of the scheduling order deadlines, and the extension will be granted.

Defendants’ Motion for Leave to File a Sur-Reply will be denied. “The filing of a surreply requires leave of the Court.” D.N.M.LR-Civ. 7.4(b). “Courts generally do not grant a party leave to file a sur-reply unless the opposing party’s reply brief includes new information that the responding party needs an opportunity to address.” *Capitol Specialty Ins. Corp. v. Sw. Clubs, Inc.*, No. 12cv01299 MCA/LAM, 2014 WL 11515028, at *8 (D.N.M. Mar. 31, 2014) (citation omitted). Where a party points to “no new evidence or argument in [the] reply brief to merit the filing of a sur-reply,” leave should be denied. *Carrasco v. New Mexico Dep’t of Workforce Sols.*, No. 10cv0999 MCA/SMV, 2013 WL 12092509, at *5 (D.N.M. Mar. 19, 2013). Defendants point to no new evidence or argument in the reply brief. The Court therefore denies defendants leave to file a sur-reply.

IT IS THEREFORE ORDERED that plaintiff’s Motion to Extend Pre-Trial Deadlines (Doc. 59) is GRANTED. The Court hereby extends the scheduling order deadlines as follows:


- a) Termination date for discovery: March 6, 2017
- b) Motions relating to discovery to be filed by: March 17, 2017
- c) Deadline for Plaintiff to move for class certification: March 17, 2017
- g) Pretrial motions other than discovery motions (including motions which may require a *Daubert* hearing) filed by: March 31, 2017
- h) Proposed Pretrial Order: Plaintiff to Defendants by: May 14, 2017

Defendants to the Court by: May 28, 2017

Any further extension of the case management deadlines must be approved by the Court.

Any requests for additional discovery must be submitted to the Court by motion prior to the expiration of the discovery deadline.

IT IS FURTHER ORDERED that defendants' Motion for Leave to File a Sur-Reply is DENIED.



Laura Fashing
United States Magistrate Judge